




previously filed motion to dismiss. *Hall v. Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am., UAW*, 2011 WL 4014315, at \*1 (W.D.N.C. 2011). However, the Fourth Circuit has noted that courts have discretion to consider a pending motion “as being addressed to the... Amended Complaint if that complaint contain[s] the same defect raised in the” pending motion. *Ohio River Valley Environ. Coalition, Inc. v. Timmermeyer*, 66 Fed. App’x 468, 472 n.4 (4th Cir. 2003).

In its discretion, the Court determines that it is inappropriate to consider Defendant’s pending motion to dismiss [DE 11] as being directed towards Plaintiff’s amended complaint. The pending motion to dismiss was targeted at many supposed factual deficiencies located in the original complaint—deficiencies that have been at least partially addressed or remedied by the filing of the amended complaint. It would be improper to rule on a pending motion to dismiss, cast against a complaint that it was never intended to address. *Sennott v. Adams*, 2014 WL 2434745, at \*3 (D. S.C. 2014).

#### CONCLUSION

For the foregoing reasons, Defendant’s motion to dismiss [DE 11] is DENIED AS MOOT. If Defendant believe that defects remain in the amended complaint, they may file a motion to dismiss addressing the amended complaint within the time frame allotted by the Federal Rules of Civil Procedure.

SO ORDERED, this 23 day of April 2025.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE